

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

RAY McKINNEY,

Plaintiff,

V.

MICHAEL J. ASTRUE, Commissioner
of the Social Security Administration,

Defendant.

3:08-cv-108-WGH-RLY

**MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge,¹ pursuant to an Order to Show Cause dated February 19, 2009. (Docket No. 14). The Magistrate Judge makes the following findings:

1. The parties appeared at a Show Cause Hearing on February 19, 2009, and plaintiff was instructed that he was to file a brief in this matter no later than May 1, 2009, and that failure to do so would result in dismissal of his claim for want of prosecution. (Docket No. 16).

2. On April 30, 2009, Plaintiff filed a one-page “brief” (Docket No. 17), which the Magistrate Judge deemed inappropriate (Docket No. 18).

¹An Order of Reference was entered by District Judge Richard L. Young on February 25, 2009. (Docket No. 15).

3. In the Magistrate Judge's Order of May 6, 2009, plaintiff was instructed to file an appropriate brief. (*Id.*)

4. On May 21, 2009, plaintiff filed a Motion for Explanation asking for clarification of the Magistrate Judge's Order concerning the issue of the "listing of impairments." (Docket No. 19).

5. Finally, the Magistrate Judge granted plaintiff's motion on May 22, 2009, informing plaintiff of the location within the Code of Federal Regulations where the listing of impairments could be found and instructed plaintiff that he must file an appropriate brief by no later than July 1, 2009. (Docket No. 20).


6. Plaintiff has failed to file such a brief. Hence, the Magistrate Judge is left with Plaintiff's one-page brief from April 30, 2009. Plaintiff's brief does not cogently argue why error has been made in this case. Plaintiff does not specify which key pieces of evidence were overlooked in plaintiff's case. Plaintiff does not identify which of the listing of impairments is met by his specific conditions. The brief is not sufficient from which the court can garner any error in the Commissioner's decision.

Recommendation

The Magistrate Judge concludes that Plaintiff has failed to comply with the court's orders. Therefore, the Magistrate Judge **RECOMMENDS** that this case be **DISMISSED, without prejudice**, for want of prosecution.

You are hereby notified that the District Judge may reconsider any pretrial matter assigned to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B). Any party shall have ten (10) days from the date of service to file written objections to such Report and Recommendation.

SO RECOMMENDED this 17th day of July, 2009.



WILLIAM G. HUSSMANN, JR.
Magistrate Judge

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